

DCUSA Consultation		At what stage is this document in the process?
<h1>DCP 345</h1> <h2>Sandbox Application</h2> <p><i>Raised on the 14 March 2019 as a Standard Change</i></p>		01 – Change Proposal
		02 – Consultation
		03 – Change Report
		04 – Change Declaration
<p><b>Purpose of Change Proposal:</b></p> <p>The intent of this Change Proposal is to facilitate the processing of sandbox applications<sup>1</sup>.</p>		
	<p>The Workgroup recommends that this Change Proposal should: proceed to Consultation</p>	
	<p>Parties are invited to consider the questions set in section 9 and submit comments using the form attached as Attachment 1 to <a href="mailto:dcusa@electralink.co.uk">dcusa@electralink.co.uk</a> by <b>21 August 2019</b>.</p>	
	<p>DCP 345 has been designated as a Part 1 Matter and as a Standard Change.</p> <p>The Working Group will consider the consultation responses and determine the appropriate next steps for the progression of the Change Proposal (CP).</p>	
	<p>Impacted Parties: All</p>	
	<p>Impacted Clauses: Section 1 - 'Definitions and Interpretations' and Clause 56 – 'Derogations'</p>	

<sup>1</sup> An application received from an innovator who is looking to run a trial to test new products, services and business models but to do so needs to derogate some of the clauses within a licence or relevant code.

Contents		 Any questions?
<b>1 Summary</b>	<b>3</b>	Contact: <b>Code Administrator</b>
<b>2 Governance</b>	<b>4</b>	 <b>DCUSA@electralink.co.uk</b>
<b>3 Why Change?</b>	<b>4</b>	 <b>02074323000</b>
<b>4 Working Group Assessment</b>	<b>5</b>	Proposer: <b>Peter Waymont</b>
<b>5 Legal Text</b>	<b>8</b>	 <b>peter.waymont@ukpovernetworks.co.uk</b>
<b>6 Relevant Objectives</b>	<b>8</b>	 <b>N/A</b>
<b>7 Impacts &amp; Other Considerations</b>	<b>9</b>	
<b>8 Implementation</b>	<b>10</b>	
<b>9 Consultation Questions</b>	<b>10</b>	
Timetable		
The timetable for the progression of the CP is as follows:		
<b>Change Proposal timetable:</b>		
Activity	Date	
Initial Assessment Report Approved by Panel	20 March 2019	
Consultation issued to Parties	23 July 2019	
Change Report issued to Panel	11 September 2019	
Change Report issued for Voting	20 September 2019	
Party Voting Ends	11 October 2019	
Change Declaration Issued to Parties	15 October 2019	
Authority Decision	19 November 2019	
Implementation	First DCUSA Release following Authority approval	

## 1 Summary

### What?

- 1.1 Ofgem introduced an initiative (Innovation Link) in 2016 to promote innovation through what is known as a regulatory sandbox<sup>2</sup>. This allows innovators to trial new products, services and business models in a real-world environment without having to comply with all the industry obligations.
- 1.2 So far, the regulatory sandbox has covered obligations controlled by Ofgem based on four eligibility criteria:
  - Innovation;
  - Consumer benefit;
  - Background research; and
  - The need for support.
- 1.3 If innovators are not licenced and are seeking derogations, then they will need to partner with a licenced business for the duration of the sandbox.
- 1.4 Ofgem are not able to offer relief from the detailed codes which underpin the operation of the gas and electricity markets, and which industry maintain. In order to widen the scope of the sandbox, Ofgem have worked closely with Code Administrators and developed Principle 14 – Code Administrators shall support prospective energy innovators, which now forms part of the Code Administrators Code of Practice (CACoP)<sup>3</sup>.

### Why?

- 1.5 The DCUSA derogation process is not currently flexible enough to cater for sandbox applications and may result in an application being rejected or accepted by the Panel without the Authority position being known after a set period of time has lapsed. This could cause un-necessary frustration and potentially costs to the innovator.

### How?

- 1.6 The derogation clause 56 is proposed to be amended to cater for the processing of the sandbox application. The proposed process introduces send back powers to both the Panel and the Authority together with a positive accept or reject of the application by the Authority. In addition, new definitions will be included within Section 1 'Definitions and Interpretations'.

---

<sup>2</sup> [What is a regulatory sandbox?](#)

<sup>3</sup> [Code Administrators Code of Practice](#)

## 2 Governance

### Justification for Part 1 Matter

- 2.1 This Change Proposal (CP) should be classed as a Part 1 Matter since it concerns the governance or the change control arrangements applying to this Agreement.

### Current Next Steps

- 2.2 The Working Group agree that the next steps are to issue this consultation document to Parties for a period of four weeks.

## 3 Why Change?

### Background of DCP 345

- 3.1 Ofgem have introduced a regulatory sandbox to promote innovation within the energy industry. It however cannot fully process those initiatives that impact industry codes. In order to progress further and support innovators. Ofgem have introduced principle 14 within CACoP. The principle description being:

*“Code Administrators shall support prospective energy innovators (“applicants”) by providing guidance on their codes to any applicant including those not acceded to said code(s). Ofgem will act as the co-ordinating and externally-facing body and will be responsible for receiving and assessing information from applicants. For applicants seeking to trial an innovative product or service. Code Administrators will assess the appropriateness of the proposed temporary derogation and provide advice to the **Code Panel who will provide a recommendation to Ofgem**”*

- 3.2 In addition, principle 14 also provides guidance where it makes it clear that it is the Authority who will grant the derogation:

*“Enable applicants to trial innovations, where applicable, **through time limited derogations granted by the Gas and Electricity Markets Authority**”.*

- 3.3 The current derogation process allows a derogation to any obligation, but this is usually related to newly introduced or amended obligations introduced by the change control process or new entrants:

*“The Panel may (subject to Clause 56.3) resolve, on the application of any Party, **to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Agreement. In resolving to grant such derogation, the Panel may impose such conditions as it sees fit, and shall specify the term, scope and application of such derogation. Derogations will normally only be granted in respect of newly introduced or amended obligations (or obligations due to be implemented in the future).**”*

- 3.4 The current process also allows for a non-veto by the Authority:

*“A derogation granted to any Party by the Panel, or any retraction, amendment or addition under Clause 56.2, shall, in each case, only be effective if made in conformity with any representations received from the Authority in accordance with Clause 56.5.3 and if not vetoed by the Authority within 10 Working Days of notification of the Panel’s decision and the rationale for it.”*

If the Authority do not reply within the 10 Working Days, it is classed on a non-veto and the Panel recommendation is deemed to be approved.

- 3.5 There is a risk that if there is no change to this process and the Authority response to the sandbox application is received sometime later than the 10 Working Days after the Panel has approved the derogation, and the innovator has potentially started their project, that this may result in costs to the innovator should the Authority reject the derogation request. Conversely should the Authority overrule the Panel, the innovator may have been given a rejection notice, which is then followed up with an acceptance, thereby creating further uncertainty and frustration with the process.
- 3.6 In addition, DCUSA is currently silent on whether any rejected requests made by the Panel are subject to a decision by the Authority.
- 3.7 Similarly, there has been a modification progressed in the Balancing & Settlements Code (BSC)<sup>4</sup> which also allows industry participants, that have pre-competitive innovative products or services but are facing barriers to entry, seek derogation from relevant BSC obligations, in order to test and develop a product or service for a fixed time period.

**Q1: Do you understand the intent of DCP 345?**

**Q2: Are you supportive of the principles of DCP 345?**

## 4 Working Group Assessment

### DCP 345 Working Group Assessment

- 4.1 The DCUSA Panel established a Working Group to assess DCP 345. This Working Group consists of DNOs and Supplier representatives. Meetings were held in open session and the minutes and papers of each meeting are available on the DCUSA website – [www.dcusa.co.uk](http://www.dcusa.co.uk).
- 4.2 The Proposer’s initial solution is to amend Clause 56 by ensuring that the process is not completed until the Authority has formally responded to the request for sandbox applications.
- 4.3 In addition, the process should be enhanced to cater for:

---

<sup>4</sup> [BSC Modification P362](#)

- Panel and Authority send back powers similar to that in the change process;
- An initial sandbox report to include what the initiative is and what clauses are to be derogated against;
- Parties to have the ability to comment on the sandbox application;
- A sandbox report post Party representation; and
- A final report to the Authority that contains all of the above together with any conditions placed on the derogation by the Panel (similar to the current process).

4.4 It is the intention of this CP to allow Parties the opportunity to comment on the Sandbox Application after the initial DCUSA Panel view. The Working Group also want to obtain Party views around the possibility of DCUSA Parties being consulted on each Sandbox Application before they are submitted to the DCUSA Panel for review so that DCUSA Parties are able to provide any comments or feedback on the applications. This may provide the innovator with information they were not aware of. If you are supportive of this approach, provide the method of communication/s that would be preferred.

**Q3: Do Parties believe that there should be a pre-Panel consultation period whereby Parties will be able to provide any comments or feedback to the DCUSA Panel on each Sandbox Application? Please provide your rationale and method of providing the comments of feedback.**

4.5 On further review of the Change Proposal, the Working Group also noted that there is no reference as to how the DCUSA Panel will treat each Sandbox Application and whether there should be a level of transparency.

4.6 It was suggested that there should be a “register” similar to the “Change Register” included on the DCUSA Website that would detail all Sandbox Applications and which would include the following detail:

- Who the Applicant is;
- Who their innovative partner is (if different to the Applicant);
- The duration of the derogation requested;
- What stage their application is at;
- The recommendation made by the DCUSA Panel; and
- The decision of the Authority.

4.7 The Working Group are seeking industry feedback on how transparent this data should be and whether all Applications should be accessible to all Industry Parties, DCUSA Parties only or the DCUSA Panel only.

**Q4: Should the detail of all Sandbox Applications be accessible to all industry Parties, DCUSA Parties only or the DCUSA Panel only? If you have a preference, please provide your rationale. If you believe there is an alternative, please provide details.**

**Q5: Do you agree with the proposed solution for this CP? Please provide your rationale.**

**Q6: Do you believe the Working Group should consider a different solution? If so, please provide your rationale.**

## **DCUSA Sandbox Application Guidance Document**

- 4.8 To aid the development of this Change Proposal, the Working Group have developed a DCUSA Sandbox Application Guidance Document.
- 4.9 The intention of the guidance document is to provide potential energy innovators with a high-level process of what needs to be completed when submitting their application for their derogation. It also provides the Applicant with detail on what powers the DCUSA Panel and the Authority have in regard to their application.
- 4.10 Following a further review of the guidance document, the Working Group noted that there was information included regarding costs and a paragraph stating that the DCUSA Secretariat may require payment of a fee to cover costs of processing an application. This would be a standard fee approved by the DCUSA Panel from time to time and will be published on the DCUSA Website.
- 4.11 This has been included to cater for the concerns raised during the development of the BSC Modification P362 regarding the volume of additional work the sandbox service may require from ELEXON. The Workgroup agreed that the solution should allow for the Panel to set an application fee, although such a fee should initially be set at zero. The inclusion of a fee, should it be necessary is to deter speculative applications. The counter argument was that Ofgem would filter out such applications. It was concluded that its inclusion would add some level of flexibility.
- 4.12 The working Group is seeking views as to whether a similar approach to an application fee should be provided within DCUSA.

**Q7: Do you agree with the inclusion of an Administrator fee to process the Sandbox Applications? Please provide your rationale**

**Q8: Do Parties have any suggested amendments on the DCUSA Sandbox Application Guidance Document?**

## 5 Legal Text

### DCP 345 Proposed Legal Text

5.1 The proposed legal text for DCP 345 make the following changes:

- The addition of definitions for “Sandbox Applicant”, “Sandbox Application” and “Sandbox Register”. These will be included in Section 1 – Definitions and Interpretations;
- The amendment of Clause 56.1 – 56.3 to highlight the exclusion of Sandbox Applications; and
- Inclusion of Clauses 56.10 – 56.20 to detail the Sandbox Application Process, including the send-back powers that the DCUSA Panel and Authority will hold (similar to clauses 13.10 – 13.12) and any potential costs (similar clauses to those implemented by the BSC Modification).

5.2 The proposed legal text can be found as attachment 2.

**Q9: Do you have any comments on the proposed legal text for DCP 345? Please provide your rationale.**

## 6 Relevant Objectives

### Assessment Against the DCUSA Objectives

- 6.1 For a DCUSA Change Proposal to be approved it must be demonstrated that it better meets the DCUSA Objectives.
- 6.2 The Proposer of DCP 345 believes that DCUSA General Objective four will be better facilitated by the implementation of this change as it will provide a more robust and transparent process for handling sandbox applications received from innovators via Ofgem and ensure a positive decision is received from the Authority.

DCUSA General Objectives	Identified impact
<input type="checkbox"/> 1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks.	None
<input type="checkbox"/> 2 The facilitation of effective competition in the generation and supply of electricity and (so far is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity.	None

<input type="checkbox"/> 3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences.	<b>None</b>
<input checked="" type="checkbox"/> 4 The promotion of efficiency in the implementation and administration of the DCUSA.	<b>Positive</b>
<input type="checkbox"/> 5 Compliance with the Regulation on Cross-Border Exchange and Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	<b>None</b>

**Q10: Which of the DCUSA General Objectives does this CP better facilitate? Please provide supporting comments.**

## 7 Impacts & Other Considerations

- 7.1 There are no cross-code concerns with this Change Proposal other than the obligation under CACoP to liaise with Code Administrators should the sandbox application cut across industry codes.
- 7.2 There is already one innovator in discussion with the Secretariat, and that innovator gave a presentation at the DCUSA Panel closed session meeting in January 2019.

### Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

- 7.3 This Change Proposal does not have any impacts on the current SCRs or any other industry change projects.

### Consumer Impact

- 7.4 This Change Proposal does not have any impact on consumers.

### Environmental Impacts

- 7.5 In accordance with DCUSA Clause 11.14.6, the proposer assessed whether there would be a material impact on greenhouse gas emissions if DCP 345 were implemented. The proposer did not identify any material impact on greenhouse gas emissions from the implementation of this Change Proposal.

### Engagement with the Authority

- 7.6 Ofgem were not invited to join the Working Group and so did not provide a representative.

### Code Specific Matters

- 7.7 The Balancing & Settlement Code has already introduced a sandbox process via BSC Modification P362.

**Q11: Are you aware of any wider industry developments that may impact upon or be impacted by this CP?**

## 8 Implementation

8.1 The proposed implementation date for DCP 345 is the first DCUSA Release following Authority approval.

**Q12: The proposed implementation date for DCP 345 is the first DCUSA Release following Authority approval. Do you agree with the proposed implementation date? Please provide your rationale.**

## 9 Consultation Questions

9.1 The Working Group is seeking industry views on the following consultation questions:

Number	Questions
1	Do you understand the intent of DCP 345?
2	Are you supportive of the principles of DCP 345?
3	Do Parties believe that there should be a pre-Panel consultation period whereby Parties will be able to provide any comments or feedback to the DCUSA Panel on each Sandbox Application? Please provide your rationale.
4	Should the detail of all Sandbox Applications be accessible to all industry Parties, DCUSA Parties only or the DCUSA Panel only? If you have a preference, please provide your rationale. If you believe there is an alternative, please provide details.
5	Do you agree with the proposed solution for this CP? Please provide your rationale.
6	Do you believe the Working Group should consider a different solution? If so, please provide your rationale.
7	Do you agree with the inclusion of an Administrator fee to process the Sandbox Applications? Please provide your rationale
8	Do Parties have any suggested amendments on the DCUSA Sandbox Application Guidance Document?

9	Do you have any comments on the proposed legal text for DCP 345? Please provide your rationale.
10	Which of the DCUSA General Objectives does this CP better facilitate? Please provide supporting comments.
11	Are you aware of any wider industry developments that may impact upon or be impacted by this CP?
12	The proposed implementation date for DCP 345 is the first DCUSA Release following Authority approval. Do you agree with the proposed implementation date? Please provide your rationale.

9.2 Responses should be submitted using Attachment 1 to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) no later than, **21 August 2019**.

9.3 Responses, or any part thereof, can be provided in confidence. Parties are asked to clearly indicate any parts of a response that are to be treated confidentially.

## Attachments

- Attachment 1 – DCP 345 Consultation Response Form
- Attachment 2 – DCP 345 Proposed Legal Text
- Attachment 3 – DCP 345 Change Proposal Form
- Attachment 4 – DCUSA Sandbox Guidance Document